

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Wright Analyst: Kristina E. North Bill Number: AB 2439

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: May 10, 2000

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Administrative Procedure Act/Small Business Reform Act of 2000/State Agencies Adopting Regulations

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 4, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 4, 2000, STILL APPLIES.

OTHER – See comments below.

### SUMMARY OF BILL

Under the Administrative Procedure Act (the Act) within the Government Code, this bill makes various changes to the laws governing regulatory procedures.

### SUMMARY OF AMENDMENTS

The May 10, 2000, amendments:

- ◆ remove the requirements that a state agency provide the cost of each reasonable alternative to a proposed regulation and give preference to the alternative that meets the statutory requirements and is the most cost-effective.
- ◆ specify that a state agency is not required to collect any additional data or conduct an economic analysis when a quantitative figure for the cost impact of a proposed regulatory action is not possible.
- ◆ specify that the requirement to involve interested parties that would be subject to complex proposed regulations in public discussions does not apply where the state agency is required to implement federal law and regulations which the agency has little or no discretion to change or where the agency has little or no authority to vary state law.
- ◆ specify that an agency's determination regarding the adverse impact, or lack thereof, on businesses' ability to compete with businesses in other states cannot be grounds for the Office of Administrative Law (OAL) to refuse publication of a notice of proposed action.
- ◆ require the state agency to include the name and telephone number of the designated backup contact person on the notice of proposed action.

#### Board Position:

<u>      </u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>      </u> N	<u>      </u> OUA	<u>  X  </u> PENDING

Legislative Director

Date

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- ◆ specify that a state agency would not be required to extend a public comment period for an additional seven days or longer if the agency would then miss the maximum period for which a notice is effective.
- ◆ specify that working files for regulations that have not been noticed for public comment are not required to be maintained in one central location.
- ◆ specify that the documents which a state agency must furnish to the small business advocate are "public records."
- ◆ specify that the small business ombudsman must not advocate for or against the adoption, amendment or repeal of any regulation.
- ◆ require the Office of the California Small Business Advocate to provide on its Internet website the name and telephone number of the small business ombudsman.

The May 10, 2000, amendments require the OAL to:

- ◆ keep each posting of the California Regulatory Notice Register on OAL's website for at least 18 months.
- ◆ provide one or more Internet links to proposed regulation text for public access.
- ◆ develop the unique identification system for availability on OAL's website by January 1, 2002.

The May 10 amendments also deleted the provision which would have allowed OAL to decline on its own authority to publish a proposed action it deems is a change without regulatory effect.

The May 10, 2000, amendments removed the language requiring the regulatory action backup person to be as knowledgeable as the primary contact person, thus resolving the implementation concern in the department's analysis of the bill as amended April 4, 2000.

The April 25, 2000, amendment corrected an inaccurate section reference, resolving one technical concern in the department's prior analysis of the bill as amended April 4, 2000. The April 25 amendment also made other technical changes that do not impact this department.

Except for the changes discussed above and the remaining technical concern, the remainder of the department's analysis of the bill as amended April 4, 2000, still applies. The remaining technical concern and the "Board Position" are restated below.

**Technical Consideration**

This bill specifies that definitions provided for the California Small Business Advocate apply to Government Code Sections 15334.5 through 15334.8, inclusive, unless otherwise indicated. However, these section numbers, added in the bill as introduced February 24, 2000, were deleted and replaced with Sections 65054 through 65054.5, thus, the referenced sections do not exist. The author's office may wish to consider changing the section numbers identified to coincide with the revised section numbers.

**BOARD POSITION**

Pending.